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Paper No. 4

MCDERMOTT, WILL & EMERY
2700 SAND HILL ROAD
MENLO PARK CA 94025

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AUG 06 2002

OFFICE OF PETITIONS

In re Application of :
Cook et al. :
Application No. 10/047,511 : DECISION DISMISSING
Filed: 19 October, 2001 : PETITION
Attorney Docket No. 62967-035 :

This is a decision on the petition under 37 CFR 1.53 filed on 15 May, 2002, requesting that the above-identified application be accorded a filing date of 19 October, 2001, with Page 6 of the specification as a part of the original disclosure.

The petition is dismissed.

On 19 October, 2001, the application was filed.

On 15 March, 2002, the Office of Initial Patent Examination (OIPE) mailed a Notice to File Missing Parts of Nonprovisional Nonprovisional Application stating that the application had been accorded a filing date of 19 October, 2001, but that, *inter alia*, Page 6 of the specification (description and claims) appeared to have been omitted from the application.

In response, on 15 May, 2002, the present petition was filed. Petitioners argue that Page 6 was not missing on 19 October, 2001. Petitioners point to their postcard receipt as evidence that Page 6 of the specification was among the application papers filed on 19 October, 2001. Petitioners request that the application be accorded a filing date of 19 October, 2001, with Page 6 as a part of the original disclosure.

The argument and evidence supplied with the petition have been carefully considered, but are not persuasive. The USPTO has a well-established and well-publicized practice of providing a receipt for papers filed in the USPTO to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the USPTO with a self-addressed postcard

identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO. See section 503, Manual of Patent Examining Procedure (MPEP 503). Unfortunately, petitioners' postcard receipt does not bear an Office-date stamp from the USPTO. As such, the postcard receipt does not serve as evidence that the items listed therein were received in the USPTO. If petitioners have a copy of the postcard receipt for this application with a USPTO "Office date" stamp, a copy of that postcard should be submitted with any renewed petition.

The petition is dismissed.

The copy of Page 6 of the specification supplied with the present petition will not be used for processing or examination, but will be retained in the application file. Petitioners may choose to file Page 6 as a preliminary amendment. If Page 6 is filed as a preliminary amendment, the amendment will be reviewed for new matter.

The petition fee of \$130.00 will not be refunded since the present petition was not necessitated by Office error.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 15 March, 2002, using the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (703)308-6918.



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy